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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,655	08/31/2001	Patrick Hilt	50R4741	1795

7590

08/25/2006

Rogitz & Associates
750 B Street
Suite 3120
San Diego, CA 92101

EXAMINER

KHATRI, ANIL

ART UNIT

PAPER NUMBER

2191

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,655

Applicant(s)

HILT ET AL.

Examiner

Anil Khatri

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/14/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The Power of Attorney and Correspondence Address indication form, filed October 11, 2004, has been entered and made of record.

- This action is in response to the request for re-consideration filed on 12/1/2004.
- As per applicants request claims 1-20 have canceled and new claims 21-28 have been entered.
- As per applicant's request canceled claims 1-20 stand rejected under 35 USC 102(e) as being unpatentable over *Lee et al* USPN 6,374,177.

Applicant argues,

- I) "Uploading the claimed service information, gleaned from an XM radio broadcast to the internet and receiving back information".
- II) "Sending information from a radio broadcast of any kind to the internet for correlation to others".

Response to arguments,

- I) It was noted that the cited prior art teaches multimedia devices will be able to receive existing analog, AM, FM and TV audios broadcast and wireless internet receiver can receive thousands of digital broadcasts from the internet in addition satellite broadcaster such as CD radio, XM radio and world space are expected to transmit to vehicles" see columns 1-6.

Therefore, limitations are met by the reference and claims stand rejected.

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II) The cited art also discloses radio broadcast of any kind to the internet for correlation to others by selecting the desired major category by pressing the up or down channel selector button. The user could then see all the channels available under that subcategory in similar fashion and select any of them to play (see column 9, lines 25-67). Thus, the limitations have been suggested by the art that correlation have established in radio transmission as well in internet environment. Therefore, claims stand rejected.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 21-28 are rejected under 35 U.S.C. 102(e) as being anticipated by *Lee et al* USPN 6,374,177.

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Regarding claims 21, 24, 25 and 26

Lee et al teaches,

- receiving at a client device, from an XM radio, service information related to an XM radiobroadcast the service information containing at least one of: product identification, artist name, song name, broadcast name, the client device being configured with a firewall (see abstract, see figures 1-3 and 5, column 2, lines 13-32, “new multimedia devices... broad geographic areas”).
- receiving at the client device, from a user input device, a signal representing the service information (column 9, lines 25-67, “user could select.... Station to play”)
 - sending at least portions of the service information to a server computer over internet (column 10, lines 40-48, “internet gateway... to the vehicle”);
 - correlating the service information to information related to the service information (column 9, lines 25-67, “user could select.... Station to play”);
 - receive, at a client browser plug-in as-associated with the client device, at least an identification of an internet since at which the information related to the service information can be located (column 10, lines 24-29, “something that being broadcast... being advertised”)and;
 - using the identification of an Internet site causing a browser associated with client browser plug-in to retrieve the information related to the service information without causing the firewall to block the information related to the service information (figure 3).

Regarding claims 22, 27 and 28

Lee et al teaches,

- the identification of an Internet site is received from an application associated with the client device (column 2, lines 53-59< 'specific program... radio station").

Regarding claim 23

Lee et al teaches,

The correlating act is undertaken at the server computer (see figure 3).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri, Primary Examiner whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-3725.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ANIL KHATRI
PRIMARY EXAMINER